

### **REMARKS**

Claims 1, 8 and 12 have been amended herein. Claims 2 and 16-19 have been canceled herein without prejudice or disclaimer. Claims 20-26 have been added herein. Claims 1, 3-15 and 20-26 will remain pending following entry of this amendment. No new matter has been added.

#### **Claim Objections**

Claim 1 was objected to as containing a typographical error. Applicant's amendment of claim 1 has corrected the error. Accordingly, the reconsideration and allowance of claim 1 is respectfully requested.

#### **35 U.S.C. §102(b) Rejections**

Claims 1-3, 5 and 17 were rejected under 35 U.S.C. 102(b) as being anticipated by J.L. Kastamo et al, United States Patent No. 3,343,719 (hereafter "Kastamo"). Applicants respectfully traverse all of the rejections.

Independent claim 1 as amended recites:

A method of distributing flexible bags filled with a beverage or liquid food product under sterile conditions to a consumer of said beverage or liquid food product in return for payment and comprising the steps of:

- a) **filling said flexible bags through a spout or tap forming part of each flexible bag and acting as both a filling inlet and dispensing outlet and thereby avoiding residue from a sealing process, the filling occurring under sterile conditions, said flexible bags having been previously sealed in a manufacturing process;**
- b) locating said flexible bags, filled with said beverage or liquid food product, in a bulk transport container having a capacity for a plurality of flexible bags, **the bulk transport container not used for dispensing the product to an end consumer;**
- c) transportation, by a commercial distributor, of the bulk transport container, in which the filled flexible bags are located, to a consumer of said beverage or liquid food product;
- d) unloading a required quantity of flexible bags filled with beverage or liquid food product for delivery to the consumer; and

- e) delivering each flexible bag for dispensing the beverage or liquid food product contained in the flexible bag to be consumed by an end consumer, and wherein, **through each step, hazard and critical control points during filling, distribution and dispensing are minimized so that beverage or food liquid product is delivered to the end consumer for consumption without taint or adverse effect.**

Applicant respectfully submits that Kastamo fails to disclose all of the elements of Applicant's claim 1 as amended. For example, Kastamo fails to disclose at least "*filling said flexible bags through a spout or tap forming part of each flexible bag and acting as both a filling inlet and dispensing outlet and thereby avoiding residue from a sealing process, **the filling occurring under sterile conditions***", "*the bulk transport container not used for dispensing the product to an end consumer*" and "*through each step, hazard and critical control points during filling, distribution and dispensing are minimized so that beverage or food liquid product is delivered to the end consumer for consumption without taint or adverse effect*" as recited in the amended claim 1.

The claimed invention provides a mechanism for distributing flexible bags filled with a beverage or liquid food product under sterile conditions to a consumer of the beverage or liquid food. More specifically, the claimed invention provides a method of safely distributing and dispensing beverages and liquid food products in a Hazard and Critical Control Points System (HAACP). Hazards associated with beverages or food in such a system include physical hazards, such as of impact injury, or chemical or biological hazards such as posed by toxins, microbes or other contaminants. Critical control points are points in the distribution system where such potential hazards can be minimized or avoided (Applicant's specification, page 2, lines 26-29).

In rejecting the earlier version of Applicant's claim 1, the Examiner relied on Kastamo as disclosing all of the elements of Applicant's earlier claim (Office Action, page 2). However, Kastamo fails to disclose or suggest a number of elements in Applicant's amended claims.

Kastamo describes a 1967 invention for transporting milk and other liquids in flexible packages. Kastamo describes a system in which flexible plastic film bags may be filled with milk. Each of the plastic film bags is equipped with a dispensing valve (16) (col. 3, lines 28-50).

A number of the plastic bags are then placed into thick paper bags (25) with the dispensing valves deposited downwardly in such a position that the valves are in proximity to a tear tab (33) in the paper bag (see Figures 2-3, and col. 3, lines 51-65 and col. 5, lines 28-42). Upon delivery to a consumer, the tear tab is torn to expose the dispensing valve of one of the flexible plastic film bags and milk is dispensed from the valve (col. 8, lines 11-36). The weight of additional bags of milk on top of the dispensing bag or other weights are used to dispense milk (col. 4, lines 27-37). Of further note, the paper bag into which the plastic bags are placed for transport also appears to be the container delivered to the end user.

Kastamo fails to disclose or suggest a number of elements in Applicant's claim 1 as amended. Claim 1 recites that the filling of the bags occurs "under sterile conditions." Kastamo mentions that the plunger is removed and then re-inserted when the bag is full but there is no teaching as to how this process in 1967 is supposed to occur in a sterile manner (col. 4, line 74-col. 5, line 12 and col. 6, lines 56-61). It therefore fails to disclose the filling of the flexible base under sterile conditions

Applicant's claim 1 also recites that *through each step, hazard and critical control points during filling, distribution and dispensing are minimized so that beverage or food liquid product is delivered to the end consumer for consumption without taint or adverse effect.*" Applicant's claim thus indicates that each of the claimed steps including filling, distribution and dispensing minimizes hazard and critical control points. Accordingly, during the transportation step, in which the bags are transported by a commercial distributor, hazards are minimized by transport in bulk transport containers **which are not used in dispensing the product to the end consumer** (see Applicant's Figures 2-5). From a safety standpoint in avoiding the tainting of the end product, the use of the separate (from the dispensing mechanism) container limits the possibilities of transportation related taint of the food product. This aspect of the claimed invention is not found in Kastamo which uses the same paper bags to transport and eventually distribute milk. The Kastamo bags which may have picked up contaminants during the transport stage are placed in the end consumer's distribution container (see Figure 1). Thus Kastamo fails to disclose or suggest " *the bulk transport container not used for dispensing the product to an end consumer*" as recited in the amended claim 1.

Similarly, there is no indication that Kastamo minimizes hazard and critical control points during dispensing of product. As previously discussed, Kastamo uses the same bags to transport and dispense the milk. Additionally, the Kastamo distribution apparatus appears to merely pile bags one on top of the other and use the weight of the bags to dispense milk with the result that old milk could become trapped in the lower bag and then be dispensed well after it is safe to consume.

Accordingly, for at least these reasons, Applicant requests the reconsideration and allowance of claim 1. Claims 3 and 5 depend upon claim 1 and are allowable at least by virtue of this dependency. Accordingly, Applicant also requests the reconsideration and allowance of claims 3 and 5.

#### 35 U.S.C. §103(a) Rejections

Claims 4, 6, 11-16 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kastamo. Claims 16 and 19 were canceled herein and so the rejections directed to those claims are now moot. Claims 4, 6 and 11-15 are dependent upon claim 1 and are therefore allowable at least by virtue of their dependency. Furthermore, Applicant also notes that claim 12 now recites that the bag is positioned in the dispenser by hanging from the handle (see Figure 6). This arrangement facilitates the dispensing of the product by utilizing gravity and avoids the sort of taint issues present in the Kastamo system where milk can become trapped in the bottom bag. Kastamo at most discusses the use of a handle to place a bag in the dispenser. There is no indication the handle is used to hang the bag. Accordingly, for at least these reasons, Applicant requests the reconsideration and allowance of claims 4, 6 and 11-15.

Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Kastamo over [www.glacermountain.com](http://www.glacermountain.com) (hereafter Glacier) which was cited by the Examiner as disclosing a commercial distributor that supplied a water dispenser. However claim 7 is dependent upon claim 1 and Glacier fails to remedy the failings of Kastamo that were discussed above with respect to claim 1. Accordingly, for at least this reason, the reconsideration and allowance of claim 7 is respectfully requested.

Claims 8-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kastamo in view of [www.chep.com](http://www.chep.com) (hereafter Chep). The Examiner cited Chep as disclosing a container of variable capacity (claim 8), a bulk transport container with a cubic design having a smooth wall and base (claim 9) and a bulk transport container made of polymer suitable for use in food grade environments (claim 10). However claims 8-10 are dependent upon claim 1 and Chep fails to remedy the failings of Kastamo that were discussed above with respect to claim 1. Accordingly, for at least this reason, the reconsideration and allowance of claims 8-10 is respectfully requested.

**CONCLUSION**

In view of the foregoing claim amendments and remarks, Applicants believe that all claims should be passed to allowance. Should the Examiner feel that a teleconference would expedite the prosecution of this application, the Examiner is urged to contact the Applicants' attorney at (617) 202-4617.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080, under Order No. WPW-001US. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. § 1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account.

Dated: November 8, 2010

Respectfully submitted,

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